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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,738	12/17/2003	Tal Davidson	P-5452-US	5611
49443	7590	10/02/2006		
PEARL COHEN ZEDEK, LLP 1500 BROADWAY 12TH FLOOR NEW YORK, NY 10036				
EXAMINER BLEIBEL, NASSEIM K				
ART UNIT			PAPER NUMBER	
3737				

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/736,738	DAVIDSON ET AL.	
	Examiner	Art Unit	
	Nasseim Bleibel	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/17/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 9-15, and 19-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishioka 5,967,968. Nishioka discloses all the limitations of the claims including capturing an in-vivo image and overlaying a scale, performed at the in-vivo device, which comprises a set of lines to provide size estimate of an object within the image and the distance between device and object. (Claims 1 and 2, Nishioka) Nishioka also shows that the scale can be produced at a processing device external to the device in claim 13. Claim 11 of Nishioka shows the in-vivo image that is captured can be displayed. A transparent piece, which is an optical dome, including a scale is used in the imaging device. (Claims 1 and 13, Nishioka) Also disclosed is a controller to: receive images from the in-vivo device and add a scale to compare the object in images to the scale, calculate the estimate size of the objects in the images, and estimate the distance between in-vivo images and the object. (Claims 1, 2, 10, 11, and 13, Nishioka) Nishioka discloses a way of receiving two points from the image and calculate the distance between them in column 11 lines 29-64. Since the image and target points can be superimposed on the display they can be compared to the scale, which is also on the

display. (Column 11, lines 59- 64) Claim 10 of Nishioka shows that a transmitter is being used.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7, 8, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishioka in view of Iddan 5,604,531 and Adachi 6,478,732. Iddan explains how an image has a distortion effect and how to compensate for the distortion in column 7, lines 1–7. Iddan also shows a swallowable pill, which can perform the tasks an endoscope can perform in a way that is easier for the patient and can perform the job more thoroughly. Using a filter as the transparent piece to aid in generating higher quality images is something that is known to someone skilled in the art. One filter that is commonly used is a fluorescence observation filter as shown by Adachi 6,478,732. Since using a swallowable pill in conjunction with the use of a filter and compensation of the distortion to generate a better image is a process that provides a more thorough examination and is easier on the patient, it would have been obvious to one skilled at the art at the time of invention to combine these features into the device of Iddan.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasseim Bleibel whose telephone number is (571) 272-2796. The examiner can normally be reached on M-F 8AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Casler Brian can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nasseim Bleibel
Examiner
Art Unit 3737

NB


BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700